

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4376 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE R.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

1 to 5: No

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SOMABHAI MANILAL PATEL

Versus

G K PATEL

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Appearance:

MR MILAN S JOSHI for Petitioners  
GOVERNMENT PLEADER for Respondent No. 1  
RULE SERVED for Respondent No. 2, 3, 4

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CORAM : MR.JUSTICE R.A.MEHTA

Date of decision: 20/04/98

ORAL JUDGEMENT

1. The petitioners are non-graduate trained teachers. Under a Government Resolution dated 10.12.1981, they were granted four extra increments by the Administrative Officer, Gandhinagar on 10th July 1982.
2. After about eight years on 10th May 1990, the

Administrative Officer, Gandhinagar cancelled the order dated 10th July 1982 giving four extra increments to the petitioners. This letter at Annexure C is challenged in this petition. This letter is issued on the basis of a letter of the Director of Primary Education dated 12th December 1981.

3. When the petition was filed, notice was issued to the respondents and they were restrained from effecting recovery. The matter was adjourned from time to time. On 6.11.1990 and 15.11.1990, the matter was specifically adjourned at the request of learned AGP to obtain a copy of the GR dated 10th December 1981. Ultimately, on 19th November 1990, as the learned AGP failed to produce the GR dated 10th December 1981 and letter dated 12th December 1989, the petition was admitted and interim relief against recovery was continued.

4. Even now, neither of these letters are produced by the AGP. In the meanwhile, the petitioners have also produced another GR dated 25th October 1980 by way of an amendment granted on 19th November 1990 when the petition was admitted.

5. Apart from non production of these vital documents, the impugned order of withdrawal of increments is required to be set aside on the ground that the same has been passed without giving any opportunity of hearing to the petitioners even though it directly and adversely affects them. On this ground, the impugned order withdrawing the extra increments ( Annexure C dated 10th May 1990 )is set aside.

If the Government proposes to insist on withdrawal of the extra increments granted to the petitioners and to make recovery, the Government shall furnish the aforesaid documents to the petitioners and give a show cause notice indicating the grounds on which it proposes to withdraw the increments and the petitioners shall be given an opportunity to show cause.

6. In the result, the petition succeeds and rule is made absolute accordingly.

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